

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

MALINDA PHENIX,)	
)	
Plaintiff,)	
)	
v.)	No. 4:21 CV 207 CDP
)	
KILOLO KIJAKAZI, Acting)	
Commissioner of Social Security,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

Plaintiff Malinda Phenix prevailed on her appeal for judicial review of an adverse decision of the Social Security Administration and now requests attorney's fees under the Equal Access to Justice Act (EAJA) in the amount of \$5,730.05. In response, the Commissioner avers that the parties have agreed to a fee award totaling \$5,583.39 and asks that I order payment in this amount. Plaintiff has not filed a brief in reply, and the time to do so has passed. I will grant plaintiff attorney's fees in the agreed amount of \$5,583.39.

This matter came before me on plaintiff's appeal for judicial review of an adverse decision of the Social Security Administration. In a Memorandum, Order, and Judgment entered February 7, 2022, I reversed the Commissioner's decision and remanded the matter to the Commissioner for further administrative

proceedings under sentence four of 42 U.S.C. § 405(g). Plaintiff now seeks an award of attorney's fees inasmuch as she is a prevailing party, has a net worth of less than two million dollars, and incurred these fees in this action. 28 U.S.C. § 2412(d). In response, the Commissioner avers that the parties have agreed to an award of attorney's fees totaling \$5,583.39 and asks that such award be made payable in accordance with *Astrue v. Ratliff*, 560 U.S. 586 (2010). Upon review of plaintiff's motion and the Commissioner's response, I find the agreed-to fees and the Commissioner's requested terms of payment to be reasonable.


Accordingly,

IT IS HEREBY ORDERED that plaintiff's Application for Award of Fees Pursuant to the Equal Access to Justice Act [31] is **GRANTED in part and DENIED in part.**

IT IS FURTHER ORDERED that, pursuant to 28 U.S.C. § 2412(d), plaintiff shall recover attorney's fees from the Social Security Administration in the amount of Five Thousand, Five Hundred Eighty-Three and 39/100 Dollars (\$5,583.39).

IT IS FURTHER ORDERED that, under the terms of the Assignment of Federal Court EAJA Attorney Fee executed by the plaintiff in this case (*see* ECF 32-3), the award shall be made payable to attorney Kristen N. Van Fossen unless plaintiff has a pre-existing debt owed to the United States, in which case the

award shall be made payable to the plaintiff and subject to offset to satisfy that debt.


CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 4th day of May, 2022.